

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

RENE GEOVANY ALFARO,

Case No. 2:21-cv-01831-RFB-DJA

Petitioner,

v.

ORDER

WARDEN CALVIN JOHNSON, et al.,

Respondents.

Petitioner Rene Geovany Alfaro, a Nevada state prisoner, has submitted a *pro se* Petition for Writ of Habeas Corpus (ECF No. 1-1) pursuant to 28 U.S.C. § 2254. This habeas matter is before the Court on Petitioner's Application to Proceed *In Forma Pauperis* (ECF No. 1).

Pursuant to 28 U.S.C. § 1914(a) and the Judicial Conference Schedule of Fees, a \$5.00 filing fee is required to initiate a habeas action in a federal district court. Indigent prisoners who do not have money to pay the \$5.00 filing fee may request permission to proceed *in forma pauperis* ("IFP"). A prisoner's IFP application must be submitted on the court's form and include three specific documents: (a) a copy of the prisoner's account statement for the six-month period prior to filing, (b) a financial certificate signed by the prisoner and an authorized prison official, and (c) the prisoner's financial declaration and acknowledgement showing an inability to prepay fees and costs. 28 U.S.C. § 1915; LSR 1-1, LSR 1-2.

Here, Petitioner has requested IFP status to waive his filing fee; however, he submitted the IFP application used by the Nevada state courts. The prisoner IFP application required in federal district courts differs from the application used in Nevada state courts. For example, the financial affidavit and acknowledgement used by this court includes more information than the state court's affidavit and affirmation. Thus, prisoners must submit the correct form for this court's review. Petitioner's application lacks the appropriate financial information and documentation required by § 1915(a) and the Local Rules. Although Petitioner may qualify for IFP status, the Court cannot make that determination because he has not submitted the correct IFP application, inmate account

statements, financial certificate signed by an authorized prison official, or financial affidavit and acknowledgement. Petitioner's IFP application will therefore be denied without prejudice.

Turning to the petition, Local Rule LSR 3-1 requires Petitioner to file his petition on the Court's required § 2254 petition form. Instead of complying with the local rule, Petitioner used a state court form. Petitioner must use the required form to state his claims in order to provide the court with necessary information to conduct preliminary review of the petition. Accordingly, Petitioner must file an amended petition on the Court's form within 30 days of the date of this order. Petitioner must clearly title the amended petition as such by writing the word "AMENDED" immediately above "Petition for a Writ of Habeas Corpus" on page 1 in the caption, and he must place the case number, 2:21-cv-01831-RFB-DJA, in the designated space. Under Local Rule 15-1, the amended petition must be complete in itself without reference to previously filed papers. Thus, the claims and allegations that are stated in the amended petition will be the only matters remaining before the Court. Any claims or allegations that are left out of the amended petition or that are not re-alleged will not be considered.

IT IS THEREFORE ORDERED:

1. Petitioner Rene Geovany Alfaro's Application to Proceed *In Forma Pauperis* (ECF No. 1) is DENIED without prejudice.
2. The Clerk of Court is instructed to mail Petitioner (i) a blank form petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 with instructions, (ii) a blank form Application to Proceed *in Forma Pauperis* for incarcerated litigants with instructions, and (iii) two copies of this order.
3. Within 45 days of the date of this order, Petitioner must file an IFP application along with (i) a financial certificate executed and signed by the petitioner and an authorized prison official, (ii) a financial acknowledgement executed and signed by the petitioner, and (iii) a statement of his inmate trust account for the six-month period prior to filing.
4. Alternatively, Petitioner will pay the \$5 filing fee within 30 days.
5. Petitioner must file an amended petition on the Court's form within 30 days. Petitioner must clearly title the amended petition as such by writing the word "AMENDED"

1 immediately above “Petition for a Writ of Habeas Corpus” on page 1 in the caption,
2 and he must place the case number, 2:21-cv-01831-RFB-DJA, in the designated space.
3 6. Petitioner’s failure to comply with this Order by (a) filing an amended petition, and
4 either (b) submitting a complete IFP application, or (c) paying the filing fee within 30
5 days will result in the dismissal of this action without prejudice and without further
6 advance notice.

7 DATED this 27 day of December 2021.

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RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE